



GOVERNOR'S OFFICE OF  
BUDGET AND PROGRAM PLANNING

## Fiscal Note 2011 Biennium

|                         |               |                |                               |
|-------------------------|---------------|----------------|-------------------------------|
| <b>Bill #</b>           | SB0326        | <b>Title:</b>  | Revise medical marijuana laws |
| <b>Primary Sponsor:</b> | Erickson, Ron | <b>Status:</b> | As Introduced                 |

- |   |  |  |
|---|--|--|
| <input type="checkbox"/> Significant Local Gov Impact     | <input checked="" type="checkbox"/> Needs to be included in HB 2 | <input checked="" type="checkbox"/> Technical Concerns   |
| <input type="checkbox"/> Included in the Executive Budget | <input type="checkbox"/> Significant Long-Term Impacts           | <input type="checkbox"/> Dedicated Revenue Form Attached |

### FISCAL SUMMARY

|   | <u>FY 2010<br/>Difference</u> | <u>FY 2011<br/>Difference</u> | <u>FY 2012<br/>Difference</u> | <u>FY 2013<br/>Difference</u> |
|---|-------------------------------|-------------------------------|-------------------------------|-------------------------------|
| <b>Expenditures:</b>                    |                               |                               |                               |                               |
| State Special Revenue                   | \$158,788                     | \$189,502                     | \$265,746                     | \$282,422                     |
| <b>Revenue:</b>                         |                               |                               |                               |                               |
| State Special Revenue                   | \$158,788                     | \$189,502                     | \$265,746                     | \$282,422                     |
| <b>Net Impact-General Fund Balance:</b> | <u>\$0</u>                    | <u>\$0</u>                    | <u>\$0</u>                    | <u>\$0</u>                    |

### Description of fiscal impact:

SB 326 is an act revising the Montana Medical Marijuana Act which will require changes in the administration of the medical marijuana registry and impact staffing of the program.

## FISCAL ANALYSIS

### Assumptions:

#### Quality Assurance Division

1. The Quality Assurance Division (QAD) of the Department of Public Health and Human Services (DPHHS) is responsible for the administration of the Medical Marijuana registry and will be the agency charged with carrying out the provisions of SB 326.
2. The operating costs for the Medical Marijuana Program (MMP) registry are funded by the registration fee charged by DPHHS for applications and renewals of registry identification cards for qualifying patients and caregivers.
3. The current number of qualifying patients in the MMP as of February 26, 2009 is 1,899.

4. The current number of caregivers in the MMP as of February 26, 2009 is 564.
  5. The provisions of SB 326 expand the list of “Debilitating medical conditions”, which is anticipated to increase the number of qualifying patients and caregivers on the registry by 50%. The current monthly average of new application is 100 per month. Therefore, the monthly average will increase to 150 per month.
  6. The bill does not provide for an effective date; therefore, the effective date is assumed to be October 1, 2009.
  7. Approximately 8% of the qualifying patients do not renew their cards each year.
- The total number of new applications for the MMP that will be processed each year is estimated to be 1,800 (150 per month x 12). By the end of FY 2013 it is estimated that there will be approximately 7,900 qualifying patients on the registry.

|                                 | FY 2010 | FY 2011 | FY 2012 | FY 2013 | FY 2014 |
|---------------------------------|---------|---------|---------|---------|---------|
| Previous yrs total applications | 2300    | 3766    | 5265    | 6644    | 7912    |
| Applications renewed @ 92%      | 2116    | 3465    | 4844    | 6112    |         |
| Net New Applications            | 1650    | 1800    | 1800    | 1800    |         |

8. SB 326 includes a new requirement for the onsite inventory audits for any caregiver with more than five (5) patients. The language stating “...onsite inventory audits that may be conducted by the department...” implies that the audits are permissive. For purposes of this fiscal note, it is assumed that inclusion of the language indicates an expectation these caregivers will be audited. It is expected that audits will be conducted annually.
9. The current number of caregivers with more than 5 patients as of February 26, 2009 is 51.
10. The total number of registered caregivers has grown 140% from December 2007 to December 2008 (194 in 12/2007 to 465 in 12/2008). It is assumed that this growth will continue as new qualifying patients are added to the registry.
11. The growth of registered caregivers has not been projected into the future as no registration fee is applied to caregivers. For purposes of estimating this number, we applied the current ratio of caregivers to patients 29% (564/1899) and the ratio of caregivers with five or more patients to total caregivers 9% (51/564) to the total number of qualifying patients estimated at the beginning of each fiscal year. The audits needed each year are as follows:

|  | FY 2010 | FY 2011 | FY 2012 | FY 2013 |
|--|---------|---------|---------|---------|
| Previous yrs total applications  | 2300    | 3766    | 5265    | 6644    |
| Estimated number of Caregivers @ 29%   | 667     | 1092    | 1527    | 1927    |
| Estimated # of Caregivers with >5 patients @ 9% = Number of Audits each year | 60      | 98      | 137     | 173     |

12. With the expected increase in the qualifying patients and caregivers, there is an increase in the workload to process all the new patient applications and approved caregivers within the statutory timelines. In FY 2010, DPHHS estimates the need for an additional .75 FTE, pay band 4, licensing permit technician, beginning in October 2009 at the cost of \$27,940. The FTE will increase to 1.00 FTE for FY 2011, FY 2012 and FY 2013 with a personal services cost of \$37,254 annually and 2.5% increase in FY 2012 and FY 2013.

13. It is estimated that 2.00 FTE will be needed to conduct the audits in FY 2010 and FY 2011. The FTE in FY 2010 will be .75 for each auditor position for a total of 1.50 FTE. This will then increase to 2.00 FTE in FY 2011 with an additional 1.00 FTE in 2012 and 2013. Due to the nature and location of the audits (at a caregiver's residence or grow operation, it is necessary to have two staff involved for the integrity of the audits, safety of the staff, and benefit of the caregiver.
14. Costs for one auditor, pay band 6, is approximately \$48,918 annually.
15. One-time office set up costs are included for the additional FTE for a total of \$7,800 in FY 2010 and \$2,600 in FY 2012. Ongoing operational costs such as phone and rent are included in each fiscal year for each additional position for a total amount of \$3,900 per FTE each year with a 2.5% inflationary rate each year thereafter.
16. All caregiver inventory audits will require travel statewide. Average mileage round trip is estimated to be 500 miles per audit. Some audits can be scheduled and performed to cover more than one audit per trip. Multiple audits per trip are expected to occur approximately 25% of the time. Therefore, travel costs are estimated at: (number of audits each year x 75%) times the average travel cost per audit of \$525. Total travel costs are \$23,625, \$38,325, \$54,075, \$68,250 for each year respectively.
17. DPHHS will need to modify and enhance the MMP registry database to include new data elements to track the new designations for debilitating medical conditions, and implement a tracking and reporting mechanism for identification of caregivers subject to audit and the results of the audits.
18. An estimated \$15,000 will be needed to complete enhancements to the system and update reports used to comply with the reporting requirements of the act.
19. An estimated \$5,000 will be needed annually thereafter to maintain the database registry, computer programming and costs of reissuing cards.
20. It is estimated that it will take approximately 20 pages of rules at \$50 per page for a one time cost of \$1,000 in FY 2010.
21. The current application fee is \$50.00.
22. The number of applications is increasing and if this bill does not pass, the current fee schedule could be lowered as current program costs are less than expenditures.
23. DPHHS will adjust the application fee so that revenues equal expenditures.

|   | <u>FY 2010<br/>Difference</u> | <u>FY 2011<br/>Difference</u> | <u>FY 2012<br/>Difference</u> | <u>FY 2013<br/>Difference</u> |
|---|-------------------------------|-------------------------------|-------------------------------|-------------------------------|
| <b><u>Fiscal Impact:</u></b>  |                               |                               |                               |                               |
| FTE   | 2.25                          | 3.00                          | 4.00                          | 4.00                          |
| <b><u>Expenditures:</u></b>   |                               |                               |                               |                               |
| Personal Services   | \$100,638                     | \$134,184                     | \$187,681                     | \$192,373                     |
| Operating Expenses  | \$58,150                      | \$55,318                      | \$78,065                      | \$90,049                      |
| <b>TOTAL Expenditures</b>   | <u>\$158,788</u>              | <u>\$189,502</u>              | <u>\$265,746</u>              | <u>\$282,422</u>              |
| <b><u>Funding of Expenditures:</u></b>  |                               |                               |                               |                               |
| State Special Revenue (02)  | \$158,788                     | \$189,502                     | \$265,746                     | \$282,422                     |
| <b>TOTAL Funding of Exp.</b>  | <u>\$158,788</u>              | <u>\$189,502</u>              | <u>\$265,746</u>              | <u>\$282,422</u>              |
| <b><u>Revenues:</u></b>   |                               |                               |                               |                               |
| State Special Revenue (02)  | \$158,788                     | \$189,502                     | \$265,746                     | \$282,422                     |
| <b>TOTAL Revenues</b>   | <u>\$158,788</u>              | <u>\$189,502</u>              | <u>\$265,746</u>              | <u>\$282,422</u>              |
| <b><u>Net Impact to Fund Balance (Revenue minus Funding of Expenditures):</u></b> |                               |                               |                               |                               |
| State Special Revenue (02)  | \$0                           | \$0                           | \$0                           | \$0                           |

**Technical Notes:**

1. In Section 2, (8)(a), the department is required to develop rules to implement an announced, on-site inventory audit for any caregiver, who has 5 or more patients. Clarification of this section is need regarding the department's authority and responsibility if a caregiver is found to be out of compliance with adopted rules. Due to the confidentiality requirements of MMA, notification to law enforcement of any out-of-compliance violations would not be permitted as currently written.

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*Sponsor's Initials*\_\_\_\_\_  
*Date*\_\_\_\_\_  
*Budget Director's Initials*\_\_\_\_\_  
*Date*